

May 14, 2018

**ERIE COUNTY COUNCIL – Regular Meeting**

Chairman Foust called to order a Regular Meeting of the Erie County Council at 7:06 p.m. at the Erie County Council Chambers, 140 West 6<sup>th</sup> Street, Room 117, Erie, PA. Following the Pledge of Allegiance, Mrs. Loll read the following prayer:

“Let us pray. Lord help us not to lose vitality rather than gain it as time passes. Help us not to give greater attention to what we were rather than what we are becoming. It is easier to move back into the past and smile on yesterday’s accomplishments than it is to look ahead into the future and think about tomorrow’s possibilities. We need to continue to change with the time and the seasons, use new ideas, and progress forward. We ask this in your name. Amen.”.

**Roll Call**

Following the Pledge of Allegiance, the County Clerk called the roll:

- Members Present:   Mr. Anderson (via telephone)  
                              Mrs. Fatica  
                              Mr. Horton  
                              Mr. Leone (via telephone)  
                              Mrs. Loll  
                              Mr. Rastetter  
                              Dr. Foust
- Members Absent:   None.
- Also Present:       Douglas R. Smith, County Clerk  
                              James Sparber, Director of Finance  
                              Thomas Talarico, Solicitor

**Hearing of The Public**

Randy Barnes, Harborcreek, PA; Mr. Barnes again talked about the website, RegionalCollege.org. They are now offering associate degrees and they are offering development classes. Manufacturers in the area have stated that they are in need of trained workers. This college is trying to address the needs of the community. He wondered if the elected officials asked for this and got it, why does it seem like the mindset has changed. He felt that the Council and Administration should now work with it instead of creating a new community college. He stated that education will be much different in the years to come regarding delivery and receiving education. Mr. Barnes expressed that there are others in the community who are ignoring this college and want to see it fail because they have their own agenda. He feels it is a terrible message to send.

**Approval of Minutes**

Mr. Horton moved to approve the minutes from the May 1, 2018, Regular Meeting. This was seconded by Mrs. Fatica and carried in a unanimous roll call vote.

**Reports of  
County Officials**

Mrs. Fatica stated that the Finance Committee met on May 10, 2018, and agreed to place Ordinance 36 under Old Business, and Ordinances 43-45, Resolutions 33-36, and four sales of parcels under New Business on the agenda, along with six board and authority appointments.

Mr. Horton stated that the Personnel Committee met immediately following the Finance Committee meeting and agreed to place Ordinances 46 through 72 under New Business.

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**OLD BUSINESS**

**Ord. 36, 2018 – Amend  
The County Purch.  
Code**

Mr. Smith gave a second reading of Ordinance Number 36, 2018, “Amending the Erie County Purchasing Code Contained in Article III, Section 1(G)(1) of the Administrative Code of Erie County”. This was moved by Mrs. Fatica and seconded by Mrs. Loll.

Mr. Horton moved to amend this ordinance to reflect the amended language provided by Solicitor Talarico. This was seconded by Mrs. Fatica and carried in a unanimous roll call vote.

Ordinance Number 36, 2018, as amended, carried in a unanimous roll call vote.

**Motion to Amend  
Agenda**

Mr. Horton moved to amend the agenda and make Ordinances 43, 46, and 47 second readings, and table Resolution Number 36, 2018. This was seconded by Mrs. Fatica and carried in a unanimous roll call vote.

Dr. Foust asked Attorney Talarico to discuss the Gregory Hayes appointment to the Erie Regional Airport Authority. Attorney Talarico commented Council’s appointments to boards and authorities in general. They are usually recommended and Council approves them with no issue because it is believed that the appointment is made by a particular member and the rest of Council will respect that member’s request. A lot of that is true and that should be the way it is, except this shouldn’t be done blindly or automatically if there really is a concern about a particular appointment. Attorney Talarico stated he is not in a position to give an opinion right now as to whether Mr. Hayes would have a conflict of interest were he to serve on the Authority. Attorney Talarico does not know the nature and extent of his business and what impact it has or what impact the Authority business has on his business. That is a very important question to answer and Council should not take it lightly, nor should they think that just because the appointment was made by one member that it should Council should automatically adhere to that, it’s not the way it should be. Council has a responsibility to review each appointment and decide, in certain situations, whether an appointment may not be in the best interest of that Authority. Attorney Talarico stated in regards to Mr. Hayes’ appointment, he thought that Council should think a bit about Mr. Hayes’ business and his involvement and whether the Authority’s business would impact on his business, and therefore whether he would have to serve or not serve.

Dr. Foust clarified with Attorney Talarico that his recommendation was to potentially table this appointment so Council could gather that information. Attorney Talarico confirmed this and restated that he is not in a position to say whether Mr. Hayes has a conflict. On the surface, it would seem that it should, at the very least, be looked into.

Dr. Foust stated that the discussion on that particular appointment when it comes up later in the meeting. He wanted to give Council members time to at least consider Attorney Talarico’s comments.

**NEW BUSINESS**

**Ord. 43, 2018 –  
Planning SA &  
New Lines for Act  
89 Registration Fee**

Mr. Smith gave a second reading of Ordinance Number 43, 2018, “Third 2018 Planning Fund Budget Supplemental Appropriation of \$901,000 and New Line Items for Act 89 Registration Fee”. This was moved by Mrs. Loll, seconded by Mrs. Fatica, and carried in a unanimous roll call vote.

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**Ord. 44, 2018 – Gaming  
Rev. Revenue; Removal  
Of Restriction & Creation  
Of Line for Erie County  
Land Bank**

Mr. Smith gave a first reading of Ordinance Number 44, 2018, “2018 Gaming Fund Budget Revised Revenue & Expenditures of \$1,000,000; Removal of Restriction and Creation of Line Items for Erie County Land Bank”.

**Ord. 45, 2018 – Amend.  
Ord. 59, 2004 – HRC  
To Add Add’l Protected  
Classes**

Mr. Smith gave a first reading of Ordinance Number 45, 2018, “Amending Ordinance 59, 2004 ‘Erie County Human Relations Commission’ to Add Additional Protected Classes”.

**Ord. 46, 2018 – Library  
Fund Rev. Exp. For  
Add’l Library Security**

Mr. Smith gave a second reading of Ordinance Number 46, 2018, “2018 Library Fund Budget Revised Expenditures for Custodial Expenditures of \$13,638 for Additional Library Security”. This was moved by Mr. Horton, seconded by Mrs. Fatica, and carried in a unanimous roll call vote.

**Ord. 47, 2018 – GF  
SA for Creation of Ct.  
Admin. Senior Secretary**

Mr. Smith gave a second reading of Ordinance Number 47, 2018, “Eighteenth 2018 General Fund Budget Supplemental Appropriation of \$9,098 for Creation of Court Administration Senior Secretary”. This was moved by Mr. Horton, seconded by Mrs. Fatica and carried in a unanimous roll call vote.

Dr. Foust stated that because the rest of the ordinances are first readings only, Mr. Smith would read them continuously in an effort to save time rather than being prompted to read each one. Dr. Foust also clarified that in Caucus, it was Mr. Leone’s suggestion, and Council agreed, to form a committee that would consist of Council members Mr. Leone, Mr. Horton, and Mrs. Loll, to interface with the Administration to discuss the future as to how, if at all, the Felice pay plan would be altered in any particular way. He felt he could speak for all members of Council that it is quite disappointing to see so many personnel actions to change that plan so quickly into the first year that the plan has been implemented. Dr. Foust stated the Committee members are welcome to meet as soon as possible, select someone to be Chair to help run the meetings, and meet with the Administration as soon as they can.

**Ord. 48, 2018 – GF SA  
For Upgrade of Admin.  
Ofcr. To Ofc. Mgr**

Mr. Smith gave a first reading of Ordinance Number 48, 2018, "Nineteenth 2018 General Fund Budget Supplemental Appropriation of \$4,696 for Upgrade of Administrative Officer to Office Manager in Pay Plan". (Personnel Committee)

**Ord. 49, 2018 – PS SA  
For Upgrade of Admin.  
Asst./Secretary**

Mr. Smith gave a first reading of Ordinance Number 49, 2018, "Second 2018 Public Safety Budget Supplemental Appropriation of \$1,034 for Upgrade of Administrative Assistant/Secretary in Non-Bargaining Pay Plan". (Personnel Committee)

**Ord. 50, 2018 – GF SA  
For Chng. In NB Pay  
Plan**

Mr. Smith gave a first reading of Ordinance Number 50, 2018, "Twentieth 2018 General Fund Budget Supplemental Appropriation of \$1,034 for Change in Non Bargaining Pay Plan". (Personnel Committee)

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**Ord. 51, 2018 – GF SA  
For Upgrade of Fiscal  
Tech. to Auditor**

Mr. Smith gave a first reading of Ordinance Number 51, 2018, "Twenty-First 2018 General Fund Budget Supplemental Appropriation of \$4,460 for Upgrade in Non-Bargaining Pay Plan of Fiscal Technician to Auditor". (Personnel Committee)

**Ord. 52, 2018 – PH SA  
For Chng. In NB Pay  
Plan – Exec. Sec. to  
Admin. Ofc. II**

Mr. Smith gave a first reading of Ordinance Number 52, 2018, "Fifth 2018 Public Health Fund Budget Supplemental Appropriation of \$4,688 for Change in Non-Bargaining Pay Plan Executive Secretary to Administrative Officer II". (Personnel Committee)

**Ord. 53, 2018 – GF SA  
For Chng. In NB Pay  
Plan**

Mr. Smith gave a first reading of Ordinance Number 53, 2018, "Twenty-Second 2018 General Fund Budget Supplemental Appropriation of \$4,688 for Change in Non-Bargaining Pay Plan". (Personnel Committee)

**Ord. 54, 2018 – GF SA  
For Chng. In NB Pay  
Plan – System Op.**

Mr. Smith gave a first reading of Ordinance Number 54, 2018, "Twenty-Third 2018 General Fund Budget Supplemental Appropriation of \$1,096 for Change in Non-Bargaining Pay Plan - System Operator". (Personnel Committee)

**Ord. 55, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Ct. Admin. Ofc.  
II**

Mr. Smith gave a first reading of Ordinance Number 55, 2018, "Twenty-Fourth 2018 General Fund Budget Supplemental Appropriation of \$11,911 for Change in Non-Bargaining Pay Plan - Court Administrative Officer II". (Personnel Committee)

**Ord. 56, 2018 – DR SA  
For Chng. In NB Pay  
Plan – Dep. Director**

Mr. Smith gave a first reading of Ordinance Number 56. 2018, "First 2018 Domestic Relations Fund Budget Supplemental Appropriation of \$1,175 for Change in Non-Bargaining Pay Plan - Deputy Director". (Personnel Committee)

**Ord. 57, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Dep. Director**

Mr. Smith gave a first reading of Ordinance Number 57, 2018, "Twenty-Fifth 2018 General Fund Budget Supplemental Appropriation of \$400 for Change in Non-Bargaining Pay Plan for Deputy Director". (Personnel Committee)

**Ord. 58, 2018 – DR SA  
For Chng. In NB Pay  
Plan – Sr. Officer**

Mr. Smith gave a first reading of Ordinance Number 58, 2018, "Second 2018 Domestic Relations Fund Budget Supplemental Appropriation of \$3,518 for Change in Non-Bargaining Pay Plan - Senior Officer Positions". (Personnel Committee)

**Ord. 59, 2018 – GF SA  
For Chng. In NB Pay  
Plan – 5 Sr. Ofcr.  
Positions**

Mr. Smith gave a first reading of Ordinance Number 59, 2018, "Twenty-Sixth 2018 General Fund Budget Supplemental Appropriation of \$1,196 for Change in Non-Bargaining Pay Plan - 5 Senior Officer Positions". (Personnel Committee)

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**Ord. 60, 2018 – DR SA  
For Chng. In NB Pay  
Plan – Supervisors**

Mr. Smith gave a first reading of Ordinance Number 60, 2018, "Third 2018 Domestic Relations Fund Budget Supplemental Appropriation of \$3,890 for Change in Non-Bargaining Pay Plan - Supervisors". (Personnel Committee)

**Ord. 61, 2018 – GF SA  
For Chng. In NB Pay  
Plan – DR Supervisors**

Mr. Smith gave a first reading of Ordinance Number 61, 2018, "Twenty-Seventh 2018 General Fund Budget Supplemental Appropriation of \$1,323 for Change in Non-Bargaining Pay Plan - Domestic Relations Supervisors". (Personnel Committee)

**Ord. 62, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Clerk Typ. To  
Admin. Clerk**

Mr. Smith gave a first reading of Ordinance Number 62, 2018, "Twenty-Eighth 2018 General Fund Budget Supplemental Appropriation of \$2,636 for Change in Non-Bargaining Pay Plan - Clerk Typist to Administrative Clerk". (Personnel Committee)

**Ord. 63, 2018 – GF SA  
For Chng. In NB Pay  
Plan – IT Spec. to  
Data Admin.**

Mr. Smith gave a first reading of Ordinance Number 63, 2018, "Twenty-Ninth 2018 General Fund Budget Supplemental Appropriation of \$4,777 for Change in Non-Bargaining Pay Plan - IT Specialist to Data Administrator". (Personnel Committee)

**Ord. 64, 2018 – Lib. Fund  
SA for Chng. In NB Pay  
Plan – Exec. Sec. to  
Admin. Ofcr.**

Mr. Smith gave a first reading of Ordinance Number 64, 2018, "Sixth 2018 Library Fund Budget Supplemental Appropriation of \$1,570 for Change in Non-Bargaining Pay Plan - Executive Secretary to Administrative Officer". (Personnel Committee)

**Ord. 65, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Lib. Secretary**

Mr. Smith gave a first reading of Ordinance Number 65, 2018, "Thirtieth 2018 General Fund Budget Supplemental Appropriation of \$1,570 for Change in Non-Bargaining Pay Plan - Library Secretary". (Personnel Committee)

**Ord. 66, 2018 – OCY  
Rev. Exp. For Chng. In  
NB Pay Plan – Admin.  
Ofc. II**

Mr. Smith gave a first reading of Ordinance Number 66, 2018, "2018 Children & Youth Services Fund Budget Revised Expenditures of \$2,561 for Change In Non-Bargaining Pay Plan - Administrative Officer II". (Personnel Committee)

**Ord. 67, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Supervisor**

Mr. Smith gave a first reading of Ordinance Number 67, 2018, "Thirty-First 2018 General Fund Budget Supplemental Appropriation of \$914 for Change in Non-Bargaining Pay Plan - Supervisor". (Personnel Committee)

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**Ord. 68, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Ct. Solicitor**

Mr. Smith gave a first reading of Ordinance Number 68, 2018, "Thirty-Second 2018 General Fund Budget Supplemental Appropriation of \$23,348 for Change in Non-Bargaining Pay Plan - Court Solicitor". (Personnel Committee)

**Ord. 69, 2018 – D&A  
Rev. Exp. For Chng. In  
NB Pay Plan – Admin.  
Asst.**

Mr. Smith gave a first reading of Ordinance Number 69, 2018, "2018 Drug and Alcohol Fund Budget Revised Expenditures of \$605 for Change in Non-Bargaining Pay Plan - Administrative Assistant". (Personnel Committee)

**Ord. 70, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Pub. Info. Ofcr.**

Mr. Smith gave a first reading of Ordinance Number 70, 2018, "Thirty-Third 2018 General Fund Budget Supplemental Appropriation of \$3,641 for Change in Non-Bargaining Pay Plan - Public Information Officer". (Personnel Committee)

**Ord. 71, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Mgr. of Facilities  
& Ops. To Director of  
Facilities & Ops.**

Mr. Smith gave a first reading of Ordinance Number 71, 2018, "Thirty-Fourth 2018 General Fund Budget Supplemental Appropriation of \$16,030 for Change in Non-Bargaining Pay Plan - Manager of Facilities and Operations to Director of Facilitates and Operations". (Personnel Committee)

**Ord. 72, 2018 – GF SA  
For Chng. In NB Pay  
Plan – Dep. Warden of  
Operations**

Mr. Smith gave a first reading of Ordinance Number 72, 2018, "Thirty-Fifth 2018 General Fund Budget Supplemental Appropriation of \$765 for Change in Non-Bargaining Pay Plan Deputy Warden of Operations". (Personnel Committee)

**Res. 33, 2018 – Erie  
Co. Emergency  
Ops Plan**

Mr. Smith gave a reading of Resolution Number 33, 2018, "Approving the Erie County Emergency Operations Plan". This was moved by Mr. Horton, seconded by Mrs. Loll, and carried in a unanimous roll call vote.

**Res. 34, 2018 –  
Exon. Taxes –  
BTW Parcel**

Mr. Smith gave a reading of Resolution Number 34, 2018, "Exonerating All Outstanding Taxes, Penalties, Interest and Fees on Parcel Numbers 15-020-015.0-119.00; 15-020-015.0-121.00 and 15-020-015.0-122.00". This was moved by Mr. Horton, seconded by Mrs. Fatica, and carried in a unanimous roll call vote.

**Res. 35, 2018 – In  
Support of Statewide  
Reduction in  
Single Use Plastic**

Mr. Smith gave a reading of Resolution Number 35, 2018, "In Support of a Statewide Reduction of Retail Single-Use Plastic Products". This was moved by Mrs. Loll and seconded by Mrs. Fatica.

Mr. Anderson and Mr. Rastetter thanked Mrs. Loll for her hard work on this resolution. Mr. Horton stated that he also appreciates the work Mrs. Loll put into this and he is in support of it, but it was difficult for him to come to that decision given the geographical area and our place in the

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plastics industry. He always sides on leaving the environment a better place for our children and generations to come, but he is acutely aware of the cracker plant, the work that Penn State Behrend does in plastics, and many of the manufacturers here in Erie County.

Resolution 35, 2018, then carried in a unanimous roll call vote.

**Res. 36, 2018 – Urging  
Permanent Incl. of  
CBA Language in  
RCAP**

This resolution was tabled.

**BOARD/AUTHORITY  
APPOINTMENTS**

Mrs. Fatica stated that as liaison to the Airport Authority, she views Mr. Hayes the same as any other local businessman who serves on the Authority; however, his business is training the much needed pilots for the larger planes, which will only benefit our airport. Other businessmen have recused themselves, and she felt that Mr. Hayes would do the same if the need arises. She supports the appointment of Mr. Hayes.

Mr. Rastetter addressed Attorney Talarico's concerns and stated that the elected officials have the best knowledge of the people in their district and that is why Mr. Hayes was his first choice because of his knowledge and work at the airport. Mr. Rastetter has no doubt that Mr. Hayes will do the best job possible. Mr. Rastetter has no reason to suspect that he may do something bad for the airport or dip his fingers in the till. He would abstain on any vote that would directly impact his business and Mr. Rastetter has already talked to Mr. Hayes about that. Mr. Hayes is well aware that he would have to do that if the situation would arise. Mr. Rastetter has tried to obtain different appointments for this seat and he was concerned about those very issues but Mr. Hayes was his first choice and is the best man for the job. Mr. Rastetter felt the appointment should be put to a vote but if Council chooses to table the appointment for now, Mr. Rastetter had no issue.

Mr. Horton commented that he likes the fact that Council can recommend appointments to the County Executive. Mr. Horton knows Mr. Hayes and stated he is a fine gentleman. With that said, Mr. Horton stated it was kind of hard for him to go against legal representation from Council's solicitor. He is comfortable either way to a degree because if Mr. Hayes, or any individual, on an Authority in a capacity such as this, he can't imagine that a huge amount of votes would have to be abstained. Yes, Mr. Hayes is willing to abstain if necessary, but at the same time is this giving the representation that is needed on such an important Authority. Mr. Horton has no problem supporting the appointment, but if one has to recuse themselves from a vote that means they can't have any part of the discussion of the issue or any influential conversation surrounding the issue. Mr. Horton hopes that this appointment would be tabled to allow the solicitor or members who have questions to delve into them further. If this does go forward for a vote, Mr. Horton would not be able to support it based on the Solicitor's recommendation.

Dr. Foust clarified that there was not a motion on the floor so no action can be taken yet.

Mr. Leone stated that he has his concerns, but he does have his ideals and he believes that any member of Council elected to that office has the opportunity to appoint anyone they want and if this is Mr. Rastetter's appointment, he has no intention of saying no. He does intend to vote yes for this appointment regardless of what fears may be. Mr. Leone commented that all Council members were elected to the office and whoever they appoint will do the best job possible.

Mr. Anderson intends to support this appointment. He does not know Mr. Hayes personally but knows he is a respected member in the community. Mr. Anderson stated that there were other concerns about him and his name has been put forward for several weeks. As he expressed to Dr. Foust and others, it could have been brought forward in another way so as not to embarrass him in the community and he thinks there is no reason for him to be embarrassed in the community. Mr.

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Anderson believes that it is the Council member's choice of who to put forward an appointment of a person that they feel will fairly be the best appointment and he would support this appointment.

Mrs. Loll moved to approve the appointment of Gregory S. Hayes to the Erie Regional Airport Authority. This was seconded by Mrs. Fatica.

Dr. Foust stated that every member of Council has the right to put forth an appointment and every member of Council thereafter has the right to decide as their conscious dictates, whether they vote up or down on that particular appointment. Regarding this particular appointment, Dr. Foust took umbrage to the words that he is "embarrassing" Mr. Rastetter. Dr. Foust pulled him aside in the hallway before Finance to discuss this particular appointment. No one asked Dr. Foust if he did that, someone just assumed that it didn't happen and that is unfortunate, but it's another example to Dr. Foust as to where this Council is headed as a group and how they work together. It is unfortunate. Dr. Foust has concerns about somebody whose livelihood is so directly connected to the Authority that they are going to sit on and thinks that it is a valid concern. When members of Council have talked about how much money Mr. Hayes has connected to the Authority itself, that is a concern to Dr. Foust. It may not be to others but it is to him. He stated that concern will have a huge impact on how he is going to vote on this particular appointee. Dr. Foust commented that he doesn't know Mr. Hayes personally and he would hope and suspects he would abstain from the votes that he is supposed to, but Dr. Foust is concerned that his livelihood is so intertwined with the Authority, will he have to abstain over and over and over again and really make his appointment that much less effective, and that is where Attorney Talarico was indicating Council could investigate that a little further. It is Council's will right now to put the motion on the floor to vote, but to say that any member's appointment needs to be automatically approved because that member brought it forward is not accurate, with all due respect to Mr. Leone. Dr. Foust stated that oftentimes Council does approve with very little discussion, but every member has the right to vote on each individual appointment as they so choose. Dr. Foust did that earlier this year with other appointments because he disagreed with those particular appointments and he will do so on this one, respectfully as he stated in Caucus to Mr. Rastetter, and he would do so in the future.

Mr. Rastetter stated that looking at Mr. Hayes' bio shows his dedication not only to his business but to the airport and the community as a whole.

Mr. Horton stated that he indicated he would vote no on this appointment. He did agree with everything that Dr. Foust echoed and it's nothing against the individual. Mr. Horton felt that if an appointee has to recuse themselves for a large part of votes it might be a moot point. Having said that, Mr. Horton feels that if this appointment is going to be approved, he has no desire to cast any doubt, and he is not suggesting that anyone has, but he does not want his vote to lead to any negative suspicion or connotation to a really fine businessman. If Mr. Hayes has to recuse himself every vote and every vote has to be scrutinized then so be it. Mr. Horton felt his colleagues made compelling enough arguments that he would support Mr. Hayes' appointment.

Mr. Hayes' appointment to the Airport Authority then carried in a 6-1 vote with Dr. Foust voting no.

#### **Sale of Parcels**

Mr. Leone moved to approve the following sale of parcels from repository for unsold properties at the following index numbers:

15-020-031.0-209.00  
19-060-029.0-203.00  
47-026-084.0-078.00  
49-016-032.1-003.53

This was seconded by Mr. Horton and carried in a unanimous roll call vote.

There being no further business, the meeting then adjourned at 7:52 p.m.

Deneé M. Breter, Council Secretary